

# Other Budget Items

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# ***EXPENDITURE LIMIT***



# Overview of the State Expenditure Limit (Initiative 601)

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Initiative 601, enacted in 1993, established an expenditure limit for the State General Fund and placed restrictions on state fees and taxes. The initiative has been amended several times, most recently by SSB 6078 in 2005.

## ***Expenditure limit is based on the fiscal growth factor***

The annual growth in state expenditures is limited to the "fiscal growth factor" plus any adjustments as set forth in statute. Currently, the fiscal growth factor is defined as the average rate of state population increase and inflation, as measured by the implicit price deflator, during the prior three fiscal years. Under SSB 6078, beginning with the 2007-09 biennium, the fiscal growth factor will be based on a ten-year average of state personal income growth.

## ***Funds the expenditure limit applies to***

The expenditure limit originally applied only to the State General Fund. Under SSB 6078, beginning with the 2007-09 biennium, the state expenditure limit will apply to the state General Fund and five additional funds: Health Services Account; Violence Reduction & Drug Enforcement Account; Public Safety & Education Account; Water Quality Account; and Student Achievement Fund.

## ***Adjustments to the expenditure limit***

The expenditure limit is adjusted downward annually to reflect the extent to which actual general fund expenditures in the prior year are less than the maximum amount allowed under the expenditure limit. This is sometimes referred to as rebasing. Other downward adjustments to the spending limit were required when program costs or moneys are shifted out of the State General Fund to other dedicated accounts. Upward adjustments to the spending limit occurred if program costs or moneys are transferred into the State General Fund from other accounts. Other adjustments (both upward and downward) occur if federal or local government costs are shifted to or from the State General Fund.

As a result of SSB 6078, beginning with the 2007-09 biennium, transferring money to the General Fund will not increase the state expenditure limit, and the shift of program costs to the General Fund will not raise the limit unless the necessary revenues are also transferred.

## ***Required number of votes to raise state revenues***

Under the initiative, a two-thirds vote of the Legislature was required for any action of the Legislature that raises state revenue or for an action that constitutes a revenue neutral tax shift. SSB 6078 authorized the Legislature to enact legislation increasing state revenue by a majority vote between April 18, 2005 and June 30, 2007. After June 30, 2007, legislative actions increasing state revenue will require a two-thirds vote of each house of the Legislature.

### ***The Emergency Reserve Fund and transfers to the Multi-modal Account***

The emergency reserve fund is an account established in the State Treasury. Each fiscal year, any General Fund revenues in excess of the expenditure limit for that fiscal year are transferred to the emergency reserve fund. Every year, \$35 million is required to be transferred from the emergency reserve fund to the multi-modal transportation account. The requirement was suspended for the 2003-05 and 2005-07 biennia.

Under SSB 6078, beginning in the 2007-09 biennium, when revenue exceeds the state expenditure limit, the excess revenue is transferred from the General Fund to the Emergency Reserve Fund in proportion to the General Fund share of the excess revenue. The requirement that interest earnings of the Emergency Reserve Fund be transferred to the Multimodal Transportation Account is eliminated.

### ***The Expenditure Limit Committee***

The Expenditure Limit Committee calculates the expenditure limit each November and projects an expenditure limit for the next two fiscal years. The Expenditure Limit Committee consisted of the Director of Financial Management, a designee of the Attorney General, and the chairs of the Senate Ways & Means and the House Appropriations Committees. SSB 6078, beginning July 1, 2007, added the ranking minority members of the Senate Ways & Means Committee and the Appropriations Committee of the House of Representatives.

## Expenditure Limit Summary

FY 2004	\$11.45 billion
FY 2005	<u>\$12.22 billion</u>
2003-05 biennium	\$23.67 billion
FY 2006*	\$12.81 billion
FY 2007*	<u>\$13.32 billion</u>
2005-07 biennium*	\$26.13 billion
FY 2008*	\$15.21 billion
FY 2009*	<u>\$16.01 billion</u>
2005-07*	\$31.22 billion

\*Estimated/preliminary. The expenditure limit is subject to change based on rebasing and legislative actions.

Note that additional accounts are included in the expenditure limit calculation beginning in FY 2008.

Additional information can be found on the Expenditure Committee internet site at [www.elc.wa.gov](http://www.elc.wa.gov).





# ***DEBT SERVICE***



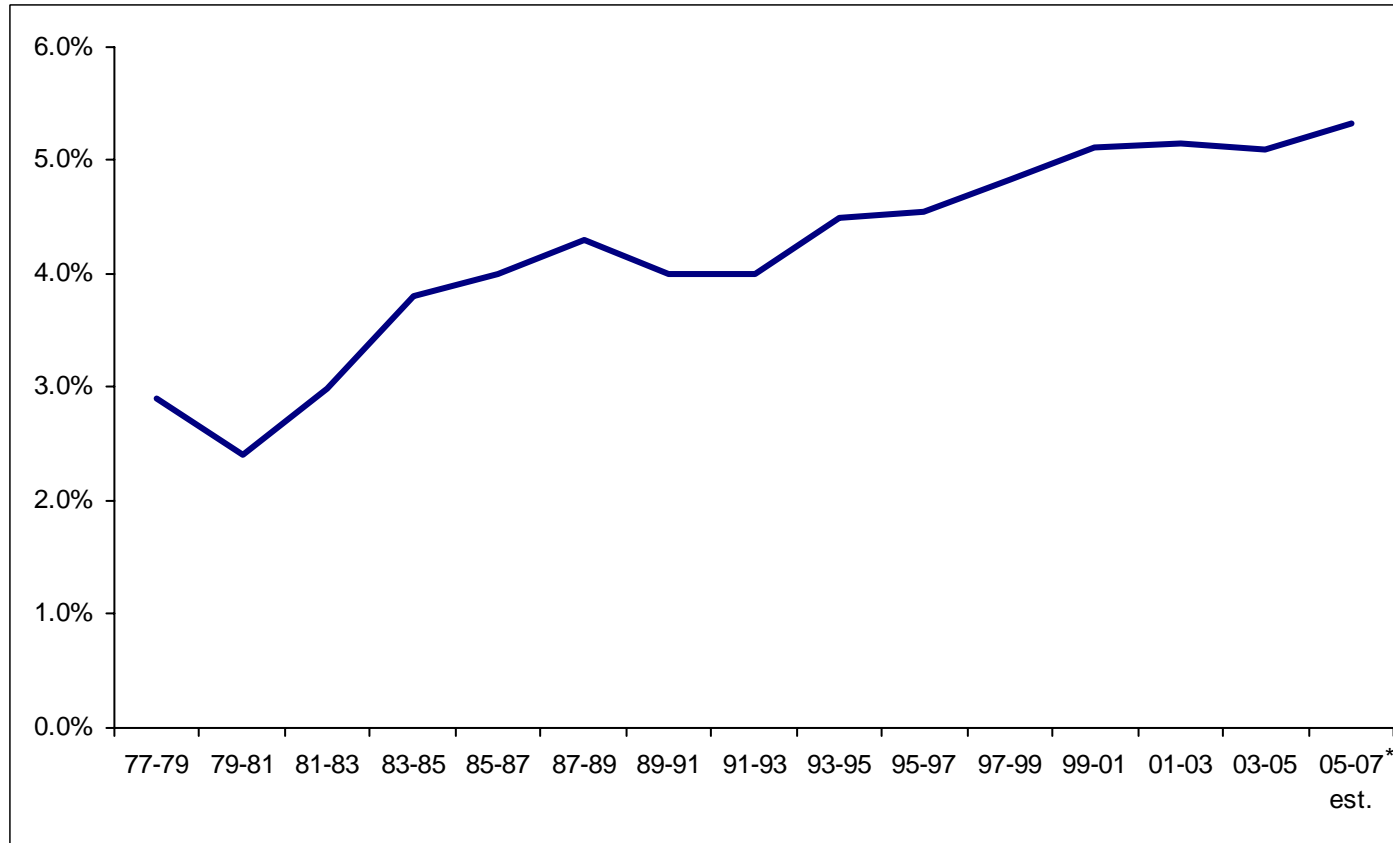
## Debt Service Paid by the Operating Budget

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- **Bonds** are issued as needed as projects are completed over about a 4-6 year period.
- The **debt limit** restricts the amount of bonds that can be issued. The Treasurer cannot issue any bonds that would cause the debt service on the new plus existing bonds to exceed the constitutional limit of 9% of general state revenue averaged over 3 years. (Changes to the statutory debt limit calculation in 2003 effectively make the statutory and constitutional limit the same.)
- **Bond capacity** for a given biennium is the amount of new appropriations that can be authorized by the Legislature for which the Treasurer can issue bonds to finance without exceeding the debt limit in the future given forecasted variables and a stable capital budget level in future biennia.
- Interest rates, revenue, and other factors affect bond capacity.

# Debt Service Payments

## Percent of General Fund



Biennium	GF Debt Service
	(\$ in millions)
77-79	124
79-81	136
81-83	197
83-85	296
85-87	355
87-89	428
89-91	485
91-93	582
93-95	685
95-97	805
97-99	922
99-01	1,066
01-03	1,159
03-05	1,235
05-07	1,417
* 07-09 est	1,600

General Fund debt service payments are \$1.4 billion in the 2005-07 biennium. This is 5.% of the General Fund. The 2007-09 estimate is 5.5% of the General Fund.

Debt service is adjusted to remove general fund debt service that is reimbursed from other funds.

# *PENSIONS*



# Summary of the State Pension System

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**Retirement systems** - The state retirement system is made up of a number of separate systems based primarily on area of employment, with combined assets of approximately \$50 billion, providing or promising retirement benefits to nearly 500,000 persons at the current time. Following is a brief summary of each of the retirement systems:

- The Public Employees Retirement System (PERS) was created in 1947 and includes most state, city, and county employees (about 240,000 members and beneficiaries in 2003).
- The Teachers Retirement System (TRS) was created in 1937 and includes certified school employees including teachers and certified administrators (about 108,000 members and beneficiaries in 2003).
- The School Employees Retirement System (SERS) was created in 2000 and covers non-certified school employees (about 54,000 members and beneficiaries in 2003).
- The Law Enforcement Officers and Fire Fighters (LEOFF) was created in 1969 and covers full-time police, deputy Sheriffs, and firefighters (about 24,000 members and beneficiaries in 2003).
- The Washington State Patrol Retirement System was created in 2003 and covers commissioned officers of the Washington State Patrol (about 1,900 members and beneficiaries in 2003).
- The Public Safety Employees Retirement System (PSERS) was created in 2004 and takes effect in 2006.
- Other systems included in the state system are the Higher Education Retirement Plan (primarily a defined contribution plan open to many college and university employees often referred to as TIAA/CREF), the Judicial Retirement Systems, Judges Retirement System, the First Class Cities (Seattle, Tacoma, Spokane), and the Volunteer Firefighters and Reserve Officers' Relief and Pensions.

**Plans** - The major Washington State retirement systems generally have had 3 types of plans. Here is a summary of the major plan designs:

	<b>PLAN 1</b>	<b>PLAN 2</b>	<b>PLAN 3</b>
PERS	<p>Closed in 1977</p> <p>Retirement after 30 years of service (yos) or age 55 with 25 yos</p> <p>Members pay fixed 6% of pay</p> <p>Benefit is 2% per yos based on highest consecutive 2 years of pay up to 30 yos</p>	<p>Opened in 1977</p> <p>Normal retirement age is 65</p> <p>Early retirement beginning at age 55 with 20 yos</p> <p>Members pay 50% of actual cost of plan</p> <p>Benefit is 2% per yos based on highest 5 consecutive years, no maximum</p>	<p>Beginning in 2002, option of plan 2 or 3</p> <p>Normal retirement age is 65</p> <p>Early retirement beginning at age 55 with 10 yrs</p> <p>Members choose 5 - 15% contribution rate at employment start date deposited into individual member account</p> <p>Benefit, in addition to individual member account, is employer-funded 1% defined benefit on highest 5 consecutive years</p>
TRS	Similar to PERS 1	Closed in 1996	<p>Mandatory for new TRS members</p> <p>Retirement age/yos, member contribution and benefits very similar to as PERS 3</p>
SERS	None	Closed in 2001	Mandatory for new SERS members
LEOFF	Closed in 1977	<p>Only open plan</p> <p>Retirement age 53</p>	None
WSPRS	Closed at end of 2002	Only open plan	None



# Pension Funding Overview

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Except for the unfunded liability in PERS 1 and TRS 1, the pension plans currently are adequately funded on an actuarial basis to cover the expected pension costs in the future. The unfunded liability primarily resulted from insufficient contributions and added benefits. The legislature intends to eliminate this unfunded liability by 2024. This does not impact the current solvency of the plans; they are very solvent on a cash basis. When examining the public obligations to the retirement systems, it is worth considering the state's total pension asset base and total obligations to state and local government employees covered by the pension systems. When the combined systems' (all the Plans 1, 2 and 3) funding status is examined using the methods outlined by the governmental accounting standards (not the same methods as we use to calculate contribution rates), the Washington State retirement systems actually have \$2.2 billion in assets in excess of liabilities.

The Office of the State Actuary is responsible for recommending appropriate member and employer contribution rates for the Public Employees', Teachers', School Employees', and Washington State Patrol Retirement Systems to the Pension Funding Council (PFC), which adopts the rates for each fiscal biennium. Included as part of the rates recommended by the State Actuary to the PFC for the 2005-07 biennium was a rate amount for funding future gain-sharing benefits in the Plans 1 and 3 and for contributions towards paying off the unfunded liabilities in the Plans 1. The legislature suspended rates toward funding gain-sharing and the amortization of the Plan 1 unfunded liability payment for the 2005-07 biennium.

## *Gain-sharing*

Gain-sharing was created by the 1998 Legislature as a mechanism to increase member benefits in PERS 1, PERS 3, TRS 1, TRS 3, and SERS 3. These increases occur whenever there are extraordinary investment gains, which are defined as compound average of investment returns on pension fund assets that exceeds 10 percent over a period of four fiscal years. Once each biennium, the state actuary determines whether gain-sharing benefits will be made. Any distributions occur in January of even-numbered years. In Plan 1, half of all extraordinary gains are used to enhance the Uniform Cost-of-Living Adjustment (Uniform COLA) that is given to eligible retirees each year. In Plan 3, half of the extraordinary gains are paid directly into eligible members' and retirees' defined contribution accounts. There have been two gain-sharing distributions since 1998, which resulted in combined benefit improvements costing roughly \$1.1 billion. When the gain-sharing benefit was created by the 1998 Legislature, language was included in the law to reserve the right of the Legislature to amend or repeal the gain-sharing benefits.

The cost of future gain-sharing had never been reflected in the basic contribution rates for the affected systems and was not included in the 2002 actuarial valuation, as the funding methodology and materiality of the gain-sharing provisions were under review. The recent Actuarial Valuation Report (prepared in December 2004) identified gain-sharing as a material liability and included this liability in calculating the basic contribution rates recommended by the State Actuary to the PFC.

## ***Unfunded liability***

While the state retirement plans that are currently open to new members (the Plans 2 and 3) are currently fully funded, unfunded accrued actuarial liabilities (UAALs) exist in both PERS 1 and TRS 1. This means that the present value of the plan liabilities, in the form of members' earned benefits to date, exceed the present value of the plan assets. As of the most recent actuarial valuation, the UAAL for PERS 1 is \$2.6 billion and the UAAL for TRS 1 is \$1.4 billion. (Gain-sharing is approximately 25% of the UAAL.) The statutory funding policy for paying off the UAAL in the Plans 1 is codified as a goal within the actuarial funding chapter. Per statute, the funding process for the state retirement systems is intended to fully amortize the total Plan 1 costs by not later than June 30, 2024. The payments towards the Plan 1 UAAL are included in employer rates and are not shared by members. In 2003, EHB 2254 suspended the employer contributions towards the PERS 1 and TRS 1 unfunded liabilities for the duration of the 2003-05 biennium.

## ***2005 Funding Decisions***

Recognition of the cost of future gain-sharing benefits in retirement system contribution rates was delayed until after the 2005-2007 fiscal biennium. The Select Committee on Pension Policy is studying the options available to the Legislature for addressing future gain-sharing liability, including: repealing, delaying, or suspending the gain-sharing provisions, making gain-sharing discretionary, or replacing gain-sharing with other benefits. Contributions toward the UAAL in PERS 1 and TRS 1 are suspended for the 2005-2007 fiscal biennium. Annual contribution rates for PERS, TRS, and SERS employers and Plan 2 members are specified for each year of the 2005-2007 fiscal biennium, as part of a four-year phase-in of contribution rate increases projected for the 2005-2009 period. The Pension Funding Council is required, upon completion of the 2005 Actuarial Valuation, to adopt contribution rates that complete the four-year phase-in schedule, adjusted for any material changes in benefits, assumptions, methods or experience.

## ***Ongoing issues***

The primary pension issues/challenges in the 2006 session and beyond include:

- Gain-sharing - Should gain-sharing be changed, modified, replaced with other benefits, repealed, or a combination of these options?
- Unfunded liability - The Legislature has skipped the unfunded liability payments for 2003-05 and 2005-07. Should the Legislature commit additional resources to get closer to the original amortization schedule?
- Reviewing requests for new benefits.

# Summary of the State Actuary's 2005 Retire-Rehire Study

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## *Cost of current program*

The report concludes that the retire-rehire program changes retirement behavior, causing some members (particularly in TRS 1) to retire earlier, generating costs to the system by paying out additional benefits and losing some contributions. The required rate increase to account for these costs are 0.06% in TRS, and 0.01% in PERS. Together, these rates represent increased total employer costs for 2007-09 of \$7.5 million, largely GF-S, as this cost is mostly in TRS.

Without change, the cost of the current retire-rehire program will be incorporated into the rates that the Actuary calculates for next biennium, so those rates will be slightly higher than previous projections. A non-contractual rights clause was contained in the sections that expanded the retire-rehire program, so the recent opinion of the Attorney General on gain-sharing and contractual rights suggests that changes can be made to the retire-rehire program without impairing contract rights.

Key facts identified in the report (excerpted from page 10 of the background summary)

- 75 percent of Plan 1 retirees who retired since the program began have returned to work for the same employer
- 2,799 TRS members and 1,507 PERS members have used the program since 2001
- TRS rehired retirees that work over the prior hour limits are mostly administrators (52 percent), rather than teachers.
- The average retire-rehired employee is age 60, has 29 years of service, a \$5,100 average final salary, and a \$2,400 benefit.

Alternatives to the retire-rehire program are explored in the report. Among the many alternatives examined: eliminating the Plan 1 30-year cap (either entirely or partially); adding additional restrictions on the program, as has been proposed in legislation over the last several years; reducing the retirement benefit paid to a rehired retiree to 50% of normal; replacing retire-rehire with a phased retirement program; or replacing retire-rehire with a deferred retirement option, or "DROP" plan.

# Summary of Attorney General Gainsharing Opinion

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At the request of the Select Committee on Pension Policy, the State Actuary Matt Smith asked the following question:

Do the provisions in gain-sharing containing "non-contractual rights clauses," negate any contractual obligation of the state to provide gain-sharing benefits?

The Attorney General answered "yes", that the non-contractual rights clauses effectively negate contractual rights to future gain-sharing distributions. He stated that the gain-sharing statutes have always clearly and unequivocally disclaimed contractual rights to future distributions, and the Legislature may amend or repeal them at any time.

The opinion analyzes many prominent pension and contract right cases that support their opinion, including Washington Cases such as *Bakenhus and Retired Public Employees Council v. Charles*, 148 Wn.2d 624, 62 P3d 470 (2003), and also the recent Oregon Supreme Court Decision *Strunk v. Pub. Employees Ret. Bd.*, 338 Or. 145, 108 P.3d 1058 (2005).

The Attorney General concludes both that the "non-contractual rights clauses" are sufficient to negate any contract rights, and that retirement system members are presumed to know the law (and hence the existence of the non-contractual rights disclaimers) by reading the statutes.

# State Pension Governance

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Prior to 1976, the major state retirement systems were under the oversight of boards of trustees that had such functions as the investment of the retirement funds, hiring the executive director, contracting for actuarial services, and proposing legislation to improve benefits for members and retirees.

In 1976, following a period of rapid increases in pension benefits and costs, the Legislature created the Department of Retirement Systems (DRS), with a director appointed by the Governor, to assume most of the oversight duties of the various retirement boards. The Office of the State Actuary (OSA) was also created in 1976 to provide all retirement system actuarial services for both DRS and the Legislature, including all studies used for setting contribution rates and determining the cost of proposed legislation. The OSA was established as an office in the legislative branch.

In 1981, the State Investment Board (SIB) was created to manage the investment of the assets of the state retirement systems. The SIB has nine voting members and four non-voting members who are investment professionals.

In 1987, the Joint Committee on Pension Policy (JCPP) was created to study pension benefit and funding policies and issues, and to appoint or remove the State Actuary by a two-thirds vote. The JCPP consisted of eight members of the Senate and eight members of the House of Representatives, split evenly between the two largest caucuses of each body. The OSA provided staffing to the JCPP.

In 1998, the Pension Funding Council was created to adopt the long-term economic assumptions and employer contribution rate for most of the state's retirement systems. The PFC also administers audits of the actuarial analysis produced for the PFC by the State Actuary.

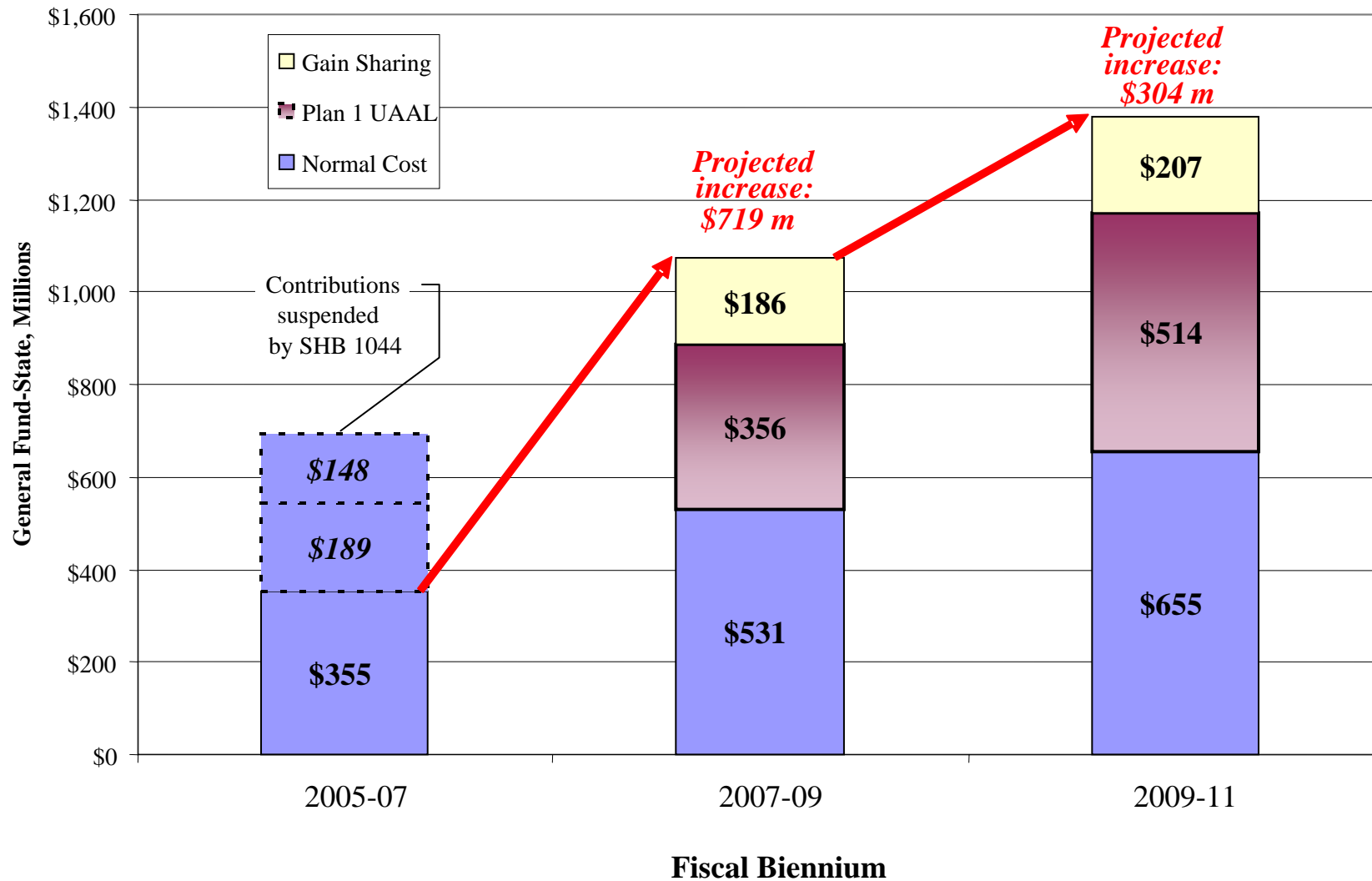
In 2002, the voters passed Initiative 790, creating a Law Enforcement Officers' and Fire Fighters' Retirement System Plan 2 (LEOFF 2) board of trustees. The LEOFF 2 Board replaced the functions of the JCPP and the PFC with respect to LEOFF 2.

The 2003 Legislature changed the JCPP to the Select Committee on Pension Policy (SCPP), and changed its makeup to one-half legislative representatives, and one-half employer, employee, and retiree representatives. The SCPP retained all of the functions of the JCPP, except those relating to the appointing and removing of the State Actuary - those functions were vested in a State Actuary Appointment Committee, which convenes upon the request of the chairs of the House Appropriations Committee and the Senate Ways and Means Committee whenever there is a vacancy or on request of four members of the Appointment Committee.

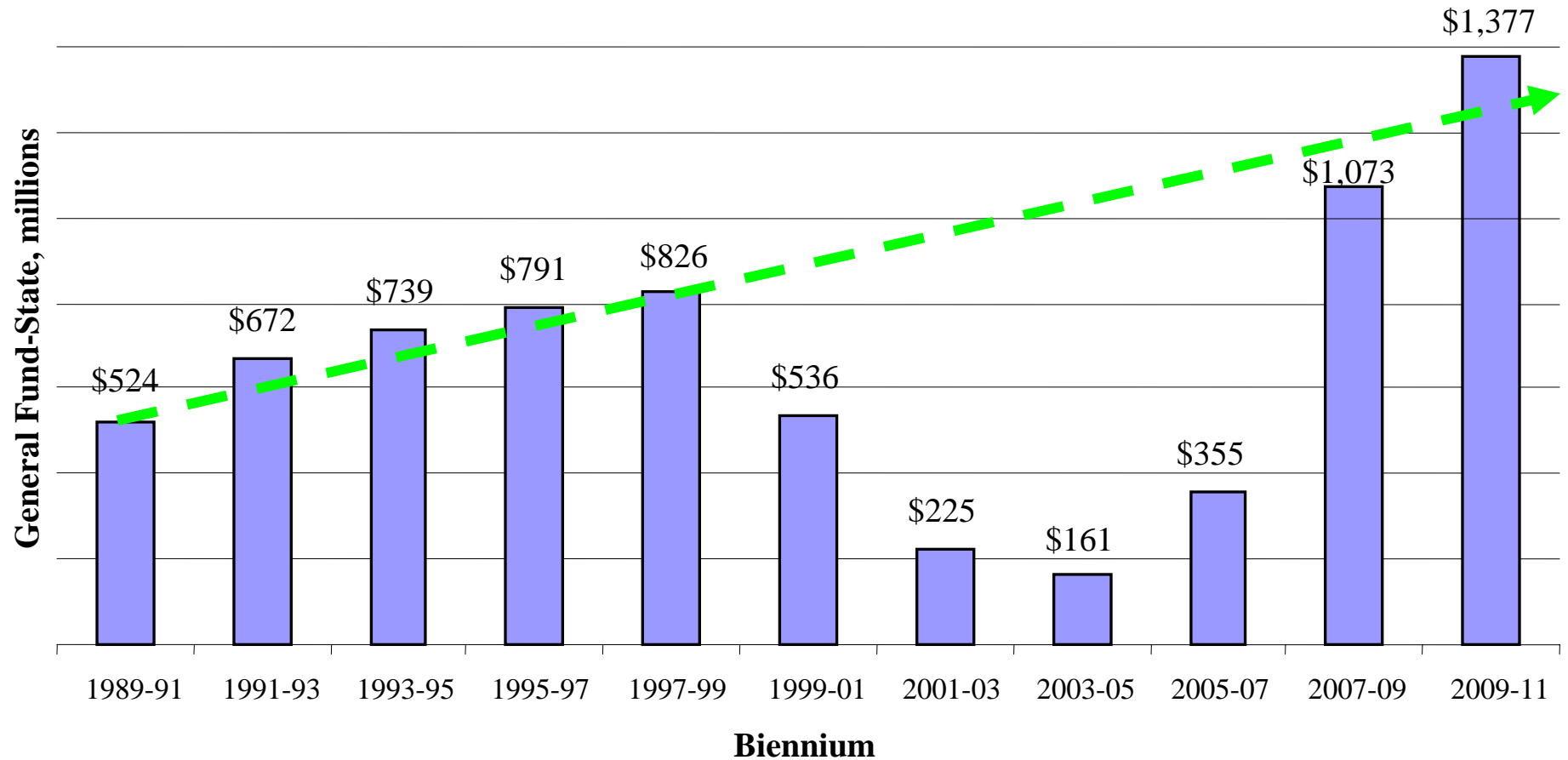
The SCPP has a statutorily-created executive committee that is composed of six members of the SCPP; the chair and co-chair of the SCPP, who are members of the House and Senate; one member representing active members of the state retirement systems; one member representing state retirement system employers; one member representing retired members; and the Director of the Department of Retirement Systems. (In 2005, the legislature added the sixth member to the executive committee of the SCPP from among the committee members representing retired members of the state retirement systems.

The Director of the Office of Financial Management no longer serves on the executive committee in alternate years, instead the Director of the Department of Retirement Systems serves on the SCPP executive committee every year.)

# General Fund-State contribution requirements are projected to increase for the next two biennia



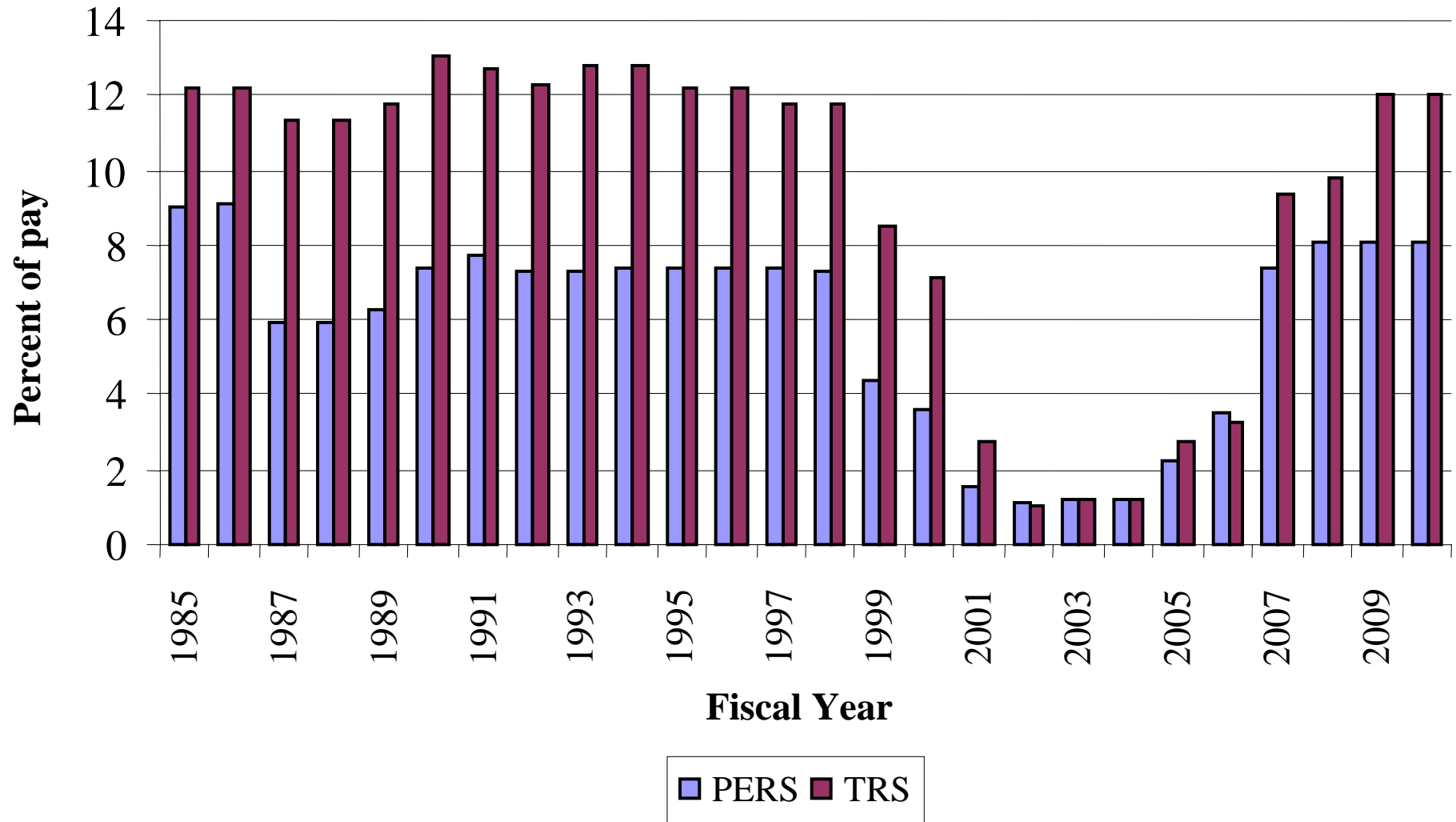
# Long-term pension costs rise with salaries, but General Fund-State contributions have dropped since 1999



— 4.5% growth trend line, equal to the economic assumption used by the Office of the State Actuary to project growth in salaries. Does not factor growth in enrollment.



# Employer contribution rates to PERS and TRS have dropped below historic levels, and are projected to return to historic levels





# ***STATE IT PROJECTS***



# State Information Technology (IT) Projects

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The state takes a portfolio based IT approach, looking at how proposed IT projects support the agency's mission and programs and how they fit with the state's overall IT structure. This approach is intended to focus on such things as:

- coordination of strategies and business plans with IT investments;
- analysis of the risks associated with IT investments to ensure appropriate risk mitigation strategies are developed; and
- ensuring that all state IT infrastructure is effectively integrated.

While the Governor's office, legislature, state agency directors, and the Department of Information Services (DIS) are involved with significant state IT investment decisions, the primary administrator of state IT investments is the Information Services Board (ISB). The ISB develops state IT standards, reviews and approves the statewide IT strategic plans, develops statewide or interagency technical policies, and provides oversight of large IT projects. The ISB has 15 members that include representation of the executive, judicial and legislative branches of government, higher education, and the private sector. The director of DIS is an ex officio member of the board.

Primary phases of a large IT project include planning, design, development, testing, and implementation. Key variables the ISB focuses on in evaluating the implementation of major IT projects are scope, schedule, budget, and other factors.

Due to significant issues with some IT projects over the last several years, including OMNI and HMRS on the current list of projects, the legislature has taken a heightened interest in the process to propose, approve, and implement a major IT project. (See House Appropriations Committee 2005 Interim Plan and September 19, 2005 meeting agenda.) The operating budget requires JLARC to study and report on the budget process for IT projects. A summary of JLARC's preliminary report follows.

**EVALUATION OF  
BUDGET PROCESS  
FOR INFORMATION  
TECHNOLOGY  
PROJECTS**

**PRELIMINARY REPORT**

**REPORT DIGEST**

**JANUARY 4, 2006**



STATE OF WASHINGTON

JOINT LEGISLATIVE AUDIT AND  
REVIEW COMMITTEE

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## STUDY BACKGROUND

In the 2005 Operating Budget, the Legislature directed JLARC to evaluate the review and funding processes for state agency information technology (IT) projects. Our assignment has three major parts: (1) a report on IT funding and expenditures across state agencies; (2) an appraisal of the state's current processes for review and funding of state agency IT projects; and (3) a look at the practices of private firms and other governments to see if there are lessons to be learned that could improve Washington's IT processes.

To complete this study, we examined applicable technology laws and policies, and we conducted focus groups and individual interviews with current or former process participants. We also hired an IT consulting firm to support this work and to research industry best management practices.

### Information on State Agency IT Expenditures

Within state statute, there is a structure in place that calls for regular reporting of state agency IT expenses and budgets to the Department of Information Services (DIS). It also calls for regular DIS reporting of aggregated IT information to the Legislature and the Governor. However, this reporting is not taking place as envisioned by statute.

Using incomplete information, state agency direct technology program expenses and IT contracts total more than \$1.4 billion for fiscal year 2004 and projected for fiscal year 2005. Without greater compliance and consistency in state agency and DIS reporting, the state does not have the information to assemble a more reliable estimate.

### The State's IT Project Review and Budget Processes

State agencies work through a project review process designed by DIS and the Information Services Board (ISB). Under this process, higher risk project proposals undergo additional scrutiny by DIS and the ISB, while lower risk projects may often proceed at the agency's discretion.

As a result of the overlay of the legislative budget process with the project review process, the Legislature may be asked to make significant funding commitments for IT projects at a time when the uncertainty about IT project cost and time estimates are the highest. Agencies may be asking the Legislature for IT project funding before the agency has prepared a detailed investment plan and before the project proposal has received a rigorous evaluation by DIS staff.

This study identifies two shortcomings with the current IT review and funding processes: (1) a need for improved coordination of IT project reviews, especially with regard to the timing of the Legislature's evaluation and funding of state agency IT projects, and (2) a need for greater reliability in the first planning estimates that come forward about IT projects. An additional concern is the ability of the DIS staff unit that supports these processes to meet all of its obligations at its current level of staffing.

Source: JLARC

## Lessons from Others' Approaches

It is difficult to conclude whether private companies perform better than state governments with managing IT initiatives. Our consultant contacted several large private corporations but found them reluctant to disclose details on their specific IT practices. Comparisons of Washington's performance to that of other jurisdictions should be viewed with some caution; only a higher-risk subset of Washington's state agency IT projects is being included in national benchmarking studies.

Other states provided some alternative processes Washington may wish to consider. Some other states, such as Illinois, New York, and Pennsylvania, structure the timing of their IT project review and funding decisions to maintain a closer link between financial decisions and technical evaluations. The state of Tennessee also has this closer link, and has a more coordinated review between its equivalent of Washington's Office of Financial Management (OFM) and DIS as well. The state of Victoria, Australia, offers a contract model including hired "scope managers" to help estimate budgets, monitor performance, and arbitrate contract disputes for agency IT projects. Washington's own capital budget processes provide lessons that could carry over to IT projects, such as phased funding, earlier introduction of the project architect, and additional guidance to agencies as they prepare their early cost estimates.

## Recommendations

1. The Information Services Board should require all agencies to submit IT project expenses and budgets in complete and consistent portfolio reports.
2. The Department of Information Services should resume submitting a statewide IT performance report biennially to the Governor and to the Legislature, engaging the Office of Financial Management and lawmakers in a review of the content and basis for analysis.
3. The Department of Information Services should undertake a workload study to identify potential gaps in its ability to provide adequate decision support for its various IT project review, funding, and oversight responsibilities, as well as for the state's biennial budget process.
4. The Legislature should consider ways to time funding actions so that they are closer to when the cost and time estimates for IT projects are more reliable.
5. The Information Services Board should investigate other methods to help agencies improve their early IT project cost estimates.

Source: JLARC





# *LEGAL AND OTHER BUDGET CONSIDERATIONS*



# Other Considerations in Writing the Operating Budget

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## *Major applicable state constitutional provisions*

**One subject rule.** Article 2, section 19 requires that a bill contain one subject and that subject be embraced in its title. The first part of the test requires a rational unity between the subparts of a bill; the second part requires that the subject be expressed in the bill title to give legislators notice of what the bill is about. Since budget bills have broad titles, such as "an act related to adopting a capital budget" or "an act relating to fiscal matters," courts traditionally have given the legislature a significant amount of latitude in this area and generally allow any subject reasonably germane to the budget to be included in the bill. However, this constitutional provision also restricts the legislature from making or amending "substantive law" in the budget bill. (The courts generally consider three things when determining if a budget provision is substantive law: (1) whether it affects rights or liabilities; (2) whether it has been included in other legislation; and (3) whether it appears to outlast the biennium covered by the budget.)

**Appropriation Requirement.** Article 8, section 4 requires an appropriation in legislation before money from funds and accounts in the state treasury may be expended. There are three parts to this: (1) it prohibits expenditures out of the state treasury without an appropriation; (2) it makes an appropriation temporary in nature (for that biennium including a 25th month); and (3) it requires each appropriation to specify an amount and a purpose. A few processes permit state agencies to make expenditures without an appropriation. Some accounts are in the custody of the state treasurer and generally do not require an appropriation if the legislature establishes the account in that manner. Also, a statutory "unanticipated receipts" process permits expenditure of some non-state moneys without an appropriation if not anticipated in the budget and the legislature is notified and given an opportunity to comment.

**Lending of credit prohibition.** Article 8, sections 5 and 7 prohibit the state and local governments from making gifts, loans, or otherwise providing credit or guarantees to or on behalf of individuals or non-government entities unless it is to assist the poor or infirm. These provisions are in addition to the Article 7, section 1 requirement that tax receipts be spent for a public purpose. When public funds go to non-government entities for purposes other than assisting the poor or infirm, the spending: (1) must be for a fundamental government purpose (such as the welfare of children); or (2) if not for a fundamental government purpose, the expenditure cannot be a gift, loan, or guarantee. To not be a gift, the public expenditure must have adequate consideration. The private benefit must be incidental to the larger public benefit. Generally, public programs and expenditures that benefit a few individuals or businesses are considered more suspect by the courts, while public programs/expenditures that assist a large number of individuals are likely to be upheld by the courts. Expenditures with a clear purpose addressing a clear need, choosing a reasonable fiscal and policy approach with safeguards to ensure the public purpose is accomplished are more likely to withstand a lending of credit challenge. Legislative acts, including appropriations in budget bills, are presumed to be constitutional by the courts.

**Governor's Veto.** Article 3, section 12 outlines the governor's veto power. Generally, for substantive/policy bills, the governor must veto an entire section. For budget bills, the Governor has an item veto power, but cannot veto less than an entire proviso or subsection. If the Governor vetoes provisos that earmark funds within a lump sum appropriation, the overall appropriation may be reduced.

### ***Other Items***

**Revenue and Caseload Forecasts.** Two councils provide regular revenue and caseload forecasts/updates on which operating budgets are based. The Forecast Council provides various economic and revenue forecasts, while the Caseload Forecast Council forecasts caseloads for public assistance, state prisons, correctional non-institutional supervision, juvenile rehabilitation institutions, public schools, long-term care, medical assistance, foster care, and adoption support. The Forecast Council's November revenue forecast is used for the governor's biennial or supplemental operating budget request, and the November Caseload Forecast Council's report is used to estimate the mandatory programs and entitlements funded in the budget. The legislature uses the March forecasts in odd-numbered years and the February forecasts in even-numbered years to write its budget.

**Tort and Sundry Claims Against the State.** The Self Insurance Liability Program covers tort claims against the state (claims the state is negligent) for all agencies except the University of Washington and the ferry system (they have their own program/coverage). Premiums for claims and defense costs are charged to state agencies based on a formula that considers agency accountability. Sundry Claims are non-tort claims where the state is alleged to be responsible for an injury, loss, or incident, but where negligence is not the basis of the claim.